

U.S. Serial No. 09/712,679
Attorney Docket No. PHF 96-574B
Page 2 of 4

R E M A R K S

In the present Office Action, it is stated that Claim 1 is the only currently pending Claim. However, the applicant would like to respectfully point out that Claims 1-3 are the currently pending Claims. In the Preliminary Amendment filed concurrently with present application, only Claim 4-6 were cancelled. Thus, Claim 1-3 are still pending in the present application. Attached is a copy of this Preliminary Amendment. In view of this, the Applicant respectfully requests correction of the status of the currently pending claims.

Claim 1 stands rejected under 35 USC 103(a) as being unpatentable over Shirai.

In response, it is respectfully submitted that the claim recites features neither taught nor suggested by Shirai. In particular, such features include "preventing access to services provided on subscription by a second provider until after the subscription from the first provider is put into use for the first time and after the subscription has continued to be used until a later different second time".

In addressing this feature in the present rejection, Official Notice was taken by the Examiner that it is well known to modify Shirai to include this feature without citing

N:\UserPublic\GR\PHF\I96574B_and_7-29-05.DOC

2

U.S. Serial No. 09/712,679
Attorney Docket No. PHF 96-574B
Page 3 of 4

any reference for support.

In response, the Applicant disagrees that this feature would be obvious in view of Shirai. First of all, in the present Office Action, it is admitted that Sharai does not disclose this feature.

Further, according to MPEP Section 2144.03, Examiners are allowed to take Official Notice to support an obvious rejection by stating a feature is well know in the art. However, according to this section, applicants can seasonably traverse the well known statement and request evidence that would support such a statement.

In view of the above, the Applicant does challenge the statement that the presently recited "preventing access to services provided on subscription by a second provider until after the subscription from the first provider is put into use for the first time and after the subscription has continued to be used until a later different second time" is well known. In reviewing Shirai, the Applicant does not see how one skilled in the art would be motivated to modify this reference to include this feature. Therefore, unless a reference can be produced showing this feature, it is respectfully submitted that this feature is distinguishable over Shirai.

In view of the above-described distinctions, it is respectfully submitted that the invention of Claims 1-3 is not

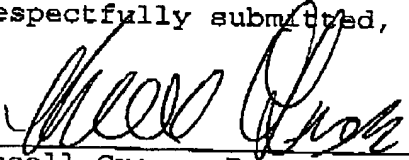
N:\UserPublic\GR\PHF\F96574B_amd_7-29-05.DOC

U.S. Serial No. 09/712,679
Attorney Docket No. PHF 96-574B
Page 4 of 4

made obvious by Shirai. Therefore, it is respectfully requested that the above rejection be reconsidered and withdrawn.

The Commissioner is hereby authorized to credit any overpayment or charge any fee (except the issue fee) to Account No. 14-1270.

Respectfully submitted,

By 
Russell Gross, Reg. 40,007
Attorney
(914) 333-9631